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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,381	02/11/2004	Robert G. Bridges	40168-000100	4601
20350 7590 06/05/2007 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER DINH, TAN X	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 06/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/777,381	<b>Applicant(s)</b> BRIDGES, ROBERT G.	
	<b>Examiner</b> TAN X. DINH	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 and 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-15 and 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1) The amendment filed 3/13/2007 is acknowledged.

2) The drawings were received on 3/13/2007. These drawings are acceptable.

3) Claims 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "similar" ( claims 24 and 25 ) was held to be indefinite since it was not clear what applicant intended to cover by the recitation "similar in song structure" or "similar in the number of instruments and vocal components". See Ex parte KRISTENSEN, 10 USPQ 2d 1701 ( Bd. PA&I. 1989 ) and In Ex parte PAPPAS, 23 USPQ 2d 1636 ( Bd. PA&I. 1992 ).

4) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

5) (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted

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on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6) Claims 12-14,,22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by ALFERNESS ( 7,078,607 ).

ALFERNESS discloses a storage medium having audio tracks embodied therein as claimed in claim 12, comprising:

N number of audio tracks wherein each audio track comprises a complete song ( column 9, lines 27-40. In this case, the medium could be any of CD, CD-ROM, DVD, etc., which contains a plurality of audio tracks, it is inherent in audio recording art that audio track is a complete song, for example, CD normally stores 10 audio tracks represent for 10 songs. See also column 1, lines 27-34 and column 6, lines 33-47 );

V versions of at least one of the N audio tracks ( column 1, lines 60-67. figures 6 and 7, and column 6, line 10 to column 7, line 7. In this case, the audio tracks is mixed with different tempos, frequencies or different musical instruments to creates different versions of audio tracks ).

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A control track for determining which of V versions is to be played ( figure 6, 620. See column 6, lines 31-33. In this case, the scripts functions as control track for determining which of V versions is to be played. See also figure 7 and column 6, line 48 to column 7, line 5 for creating scripts ).

Claims 13,14,22 and 23 are rejected with the same reasons set forth in last Office action.

7) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8) Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over ALFERNESS ( 7,078,607 ).

Claims 24 and 25 are rejected with the same reasons set forth in last Office action.

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9) Applicant's arguments filed 3/13/2007 have been fully considered but they are not persuasive.

First, applicant states that the reference of ALFERNES did not disclosed a storage medium for storing audio tracks (songs) with different versions. Applicant is directed to ALFERNES's figures 2 and 3, the audio tracks (songs) are stored on CD-ROM 226 or hard disk 228. Further, in figures 6 and 7, the reference of ALFERNES shows the step of store sound tracks (songs) and creates scripts for controlling the playback of sound tracks through playback device. The "sound elements " such as, vocals, guitar, bass, drums, etc., are used for editing process. By adding these "sound elements " to the songs (audio tracks) the audio tracks could have different versions and these versions are selectable for playing back.

Second, the song base version on the reference of ALFERNES is the original audio track itself. The original audio tracks (songs) could be mixed with vocals to create a first version, the original audio tracks (songs) could be mixed with guitar to create a second version or the original audio tracks (songs) could be mixed with base to create a third version. For those reasons, the claims are still rejectable as shown above.

10) THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11) This application contains claims 1-11 and 16-21 drawn to an invention non-elected with traverse in Paper No. 11/13/2006. A complete reply to the final rejection must include cancellation of non-elected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.


12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN XUAN

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DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY to FRIDAY from 9:00AM to 5:00PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TAN DINH**  
**PRIMARY EXAMINER**  
May 31, 2007